



ARIZONA STATE SENATE
Fifty-Fifth Legislature, First Regular Session

AMENDED
FACT SHEET FOR S.B. 1826

K-12 education; budget reconciliation; 2021-2022

Purpose

Makes statutory and session law changes relating to K-12 education necessary to implement the FY 2022 state budget. Contains requirements for enactment for initiatives and referendums (Proposition 105).

Background

The Arizona Constitution prohibits substantive law from being included in the general appropriations, capital outlay appropriations and supplemental appropriations bills. However, it is often necessary to make statutory and session law changes to effectuate the budget. Thus, separate bills called budget reconciliation bills (BRBs) are introduced to enact these provisions. Because BRBs contain substantive law changes, the Arizona Constitution provides that they become effective on the general effective date, unless an emergency clause is enacted.

S.B. 1826 contains the budget reconciliation provisions for changes relating to K-12 education.

Provisions

Basic State Aid

1. Increases the base level for FY 2022 from \$4,305.73 to \$4,390.65.
2. Adjusts, effective July 1, 2022, the basic state aid apportionment schedule to provide payments on the 15th business day, instead of the 1st business day of each month.

Charter Schools

3. Increases the Charter Additional Assistance (CAA) amount per student count for FY 2022:
 - a) from \$1,875.21 to \$1,897.90, for students in preschool programs for children with disabilities, kindergarten programs and grades 1 through 8; and
 - b) from \$2,185.53 to \$2,211.97, for students in grades 9 through 12.

Transportation Funding

4. Increases the transportation support level per route mile formula amount for FY 2022:
 - a) from \$2.74 to \$2.77 for 0.5 or less approved daily route mileage per eligible student transported;
 - b) from \$2.24 to \$2.27 for more than 0.5 to 1.0 approved daily route mileage per eligible student transported; and
 - c) from \$2.74 to \$2.77 for more than 1.0 of approved daily route mileage per eligible student transported.

5. Allows, beginning in the 2021-2022 school year:
 - a) a school district to use a portion of its transportation funding to provide in lieu of transportation grants to parents of students attending the school district, according to a plan submitted to the Arizona Department of Education (ADE); or
 - b) a charter school to use a portion of its CAA funding to provide in lieu of transportation grants to parents of students attending the charter school, according to a plan submitted to ADE.
6. Allows transportation grants to support individual parents or neighborhood carpools to transport students to the school.
7. Prohibits a participating district's transportation funding allocation from being reduced.
8. Requires participating charter schools to report to ADE regarding the monies awarded to parents.
9. Directs ADE to:
 - a) adopt policies and procedures accounting for transportation grant expenditures; and
 - b) require proof of attendance for students receiving grant support.

Group B Support Level Weights

10. Increases, from 5.833 to 5.988, the support level weights for students with multiple disabilities (MD-SC), autism (A-SC) and severe intellectual disability (self-contained) (SID-SC).
11. Increases, from 0.003 to 0.093, the support level weights for students with developmental delays (DD), emotional disabilities (ED), mild intellectual disabilities (MIID), a specific learning disability (SLD), speech/language impairments (SLI) and other health impairments (OHI).
12. Adds a support level weight of 0.007 for educational programs for gifted (G) pupils scoring at or above the 97th percentile, based on national norms, on a test adopted by the State Board of Education (SBE).

Extraordinary Special Education Needs Fund

13. Transfers, from the SBE to ADE, the administration and oversight of the Extraordinary Special Education Needs Fund (Extraordinary Needs Fund) and allows ADE to retain up to two percent of monies for administration.
14. Requires ADE to award monies from the Extraordinary Needs Fund to school districts and charter schools with eligible claims, rather than with grants.
15. Deems a school district or charter school eligible for Extraordinary Needs Fund monies if it demonstrates a student receiving special education services has incurred current year costs of at least three times the statewide per-pupil funding average.
16. Requires a school district or charter school that is submitting a claim to the Extraordinary Needs Fund on behalf of a student to:
 - a) demonstrate the current year total costs incurred by the student; and
 - b) itemize the total costs that are attributable to the student.

17. Allows a school district or charter school to submit a claim for:
 - a) the full fiscal year, if an expense incurred at the time of filing will continue in subsequent quarters until the end of the same fiscal year; or
 - b) expenses resulting from an independent educational evaluation.
18. Allows a school district or charter school to revise a claim, to receive funding at the end of the quarter, for an additional expense for a student who received funding in the same fiscal year, subject to available monies.
19. Requires ADE to:
 - a) evaluate claim requests each quarter;
 - b) if there are insufficient monies in the Extraordinary Needs Fund, prioritize funding based on the difference between the claim amount submitted by a school district or charter school and the total funding received for that student; and
 - c) annually adopt policies and procedures, including the average statewide per-pupil funding amount for a fiscal year, for posting on the ADE website.
20. Allows ADE to notify a school district or charter school that submits a claim with insufficient information to revise its claim within two weeks.
21. Requires ADE to annually report, by December 15, to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Joint Legislative Budget Committee (JLBC), the Governor's Office of Strategic Planning and Budgeting and the Secretary of State:
 - a) the number of claims for extraordinary special education needs that were funded in the previous year;
 - b) how school districts and charter schools used claim monies; and
 - c) the total number of claims received during the previous year.
22. Establishes that Extraordinary Needs Fund monies are continuously appropriated, rather than subject to legislative appropriation.

Results-Based Funding

23. Requires ADE, in FY 2022, to distribute monies from the Results-Based Funding Fund (Fund) as follows:
 - a) \$225 per student count for each district or charter school that:
 - i. has less than 60 percent of enrolled students eligible for free or reduced-price lunches (FRPLs) or an equivalent measure, including the community eligibility provision; and
 - ii. performed in the top 13 percent of all Arizona schools on the statewide assessment in spring 2019;
 - b) \$400 per student count for each district or charter school that:
 - i. has at least 60 percent of enrolled students eligible for FRPL or an equivalent measure, including the community eligibility provision; and
 - ii. performed in the top 13 percent of schools on the statewide assessment in spring 2019 of those schools with at least 60 percent of enrolled students eligible for FRPL or an equivalent measure;

- c) \$225 per student count for each district or charter school that:
 - i. has at least 60 percent of enrolled students eligible for FRPL or an equivalent measure, including the community eligibility provision; and
 - ii. performed within the top 13.1 to 27 percent of schools on the statewide assessment in spring 2019 of those schools with at least 60 percent of enrolled students eligible for FRPL or an equivalent measure; and
 - d) \$400 per student count for each alternative high school that performed in the top 27 percent of schools on the statewide assessment in spring 2019, with at least 60 percent of enrolled students eligible for FRPL or an equivalent measure.
24. Specifies an alternative high school is eligible for results-based funding only if it reports the average percentage of students who received a passing score on both the mathematics and language arts portions of the statewide assessment during testing conducted in spring 2019.

Industry-Recognized Certification and Licensure Reimbursement Fund

25. Establishes the Industry-Recognized Certification and Licensure Reimbursement Fund (Certification and Licensure Fund) consisting of legislative appropriations, gifts, grants and other donations administered by ADE.
26. Directs ADE to use Certification and Licensure Fund monies to eliminate or reduce exam costs for obtaining industry-recognized certificates and licenses for low-income students.
27. Requires qualified students to:
- a) pass a certificate or license exam for a career and technical education (CTE) program;
 - b) meet eligibility requirements for FRPL under the National School Lunch and Child Nutrition Acts; and
 - c) apply to the Career and Technical Education District (CTED) to receive reimbursement for the exam cost.
28. Directs the CTED to apply to ADE to be reimbursed for the exam cost.
29. Directs ADE to reduce the reward amount proportionally to each student's exam cost, if available fund monies are insufficient to cover the costs of qualified applicants.
30. Specifies that Certification and Licensure Fund monies are continuously appropriated and exempt from lapsing.

Cooperative Services Fund

31. Creates the Cooperative Services Fund (Cooperative Fund) consisting of monies from ADE for special education institutional vouchers.
32. Directs that Cooperative Fund monies be used for:
- a) deaf and blind students enrolled in regional school cooperatives;
 - b) membership fees paid by participating school districts and charter schools in regional school cooperatives; and
 - c) fee-for-service payments by school districts and charter schools that do not receive a special education institutional voucher for students enrolled in regional school cooperatives.

33. Directs the Arizona State Schools for the Deaf and the Blind to administer the Cooperative Fund which is subject to legislative appropriation and exempt from lapsing.
34. Defines *regional school cooperatives* as regional programs and services offered by the schools in conjunction with other school districts and charter schools for students with a hearing impairment, sensory impairment or visual impairment who attend an Arizona district or charter school.

Face Coverings

35. Prohibits, retroactive to July 1, 2021, a county, city, town, school district governing board (governing board) or charter school governing body (governing body) from requiring students or staff to use face coverings during school hours and on school property.

School Financial Transparency Portal

36. Directs, starting in FY 2022 and retroactive to July 1, 2021, the Arizona Department of Administration (ADOA) to develop a transparent and accessible school financial transparency portal that includes the following school level data for charter and district schools and school districts:
 - a) the total revenues generated by weighted student count;
 - b) the total allocation of federal, state and local revenues;
 - c) the allocation of Classroom Site Fund monies;
 - d) the allocated amounts for teacher pay and benefits, classroom supplies, student support and other expenditures;
 - e) a comparison between a school's funding information and other schools in the same local education agency; and
 - f) any other necessary information for a transparent comparison between schools regarding revenues, expenditures, student demographics or academic achievement.
37. Directs ADE and the State Board for Charter Schools (ASBCS) to provide and assist with any data or financial information requested by ADOA or the selected third-party contractor to provide the information as required.
38. Allows the Auditor General to provide assistance to ADOA with any requested information for the school financial transparency portal.
39. Directs ADOA to develop the portal with a third-party contractor that:
 - a) has experience building education finance platforms to display school financial information in a transparent and understandable format;
 - b) has been incorporated for at least five years;
 - c) has an exclusive focus on education finance technology for kindergarten through grade 12; and
 - d) has at least five years of experience building cloud-hosted education finance software including experience integrating with the uniform system of financial records.
40. Requires each school's annual report card to include a link to the information provided by the school financial transparency portal.

Student-Level Data

41. Requires ADE to adopt policies that allow county school superintendents, the SBE and the ASBCS access to student-level data for students currently enrolled in a school that is within their jurisdiction.
42. Requires ADE to develop and publish policies, as defined by interagency data-sharing agreements, to comply with the Family Educational Rights and Privacy Act (FERPA) and other relevant privacy laws, including those that manage access to personally identifiable information to be implemented by ADE, county school superintendents, the SBE and the ASBCS.
43. Requires the ADE-developed policies to:
 - a) contain a detailed security plan that includes:
 - i. guidelines for authorizing access and authenticating authorization to systems housing the data;
 - ii. privacy compliance standards and security audits;
 - iii. security breach planning, notice, procedures and consequences;
 - iv. data retention and disposition policies, including criteria on how and when the data will be destroyed; and
 - v. guidelines regarding data use and staff trainings;
 - b) ensure that written agreements involving the disclosure of student-level data that comply with the following:
 - i. minimum FERPA conditions;
 - ii. specify the purpose, scope and duration of the disclosure and information disclosed;
 - iii. require personally identifiable information to comply with the outlined scope;
 - iv. prohibit access to personally identifiable information by anyone outside of the organization; and
 - v. require the organization to destroy personally identifiable information that is no longer needed for the outlined purpose and specify when the information must be destroyed;
 - c) ensure that work products from the use of student-level data do not conflict with any state and federal reporting; and
 - d) provide access to student-level data through an online platform within the parameters of federal law pursuant to the written agreements with the consent of required parties.
44. Exempts homeschool student data from prescribed accessibility requirements.

Open Enrollment Policies

45. Requires school district governing board (governing board) open enrollment policies to:
 - a) include basic information needed to request enrollment that is consistent with guidance and state and federal law regarding pupil privacy and civil rights;
 - b) include information regarding the provision of transportation or resources for transportation; and
 - c) be easily accessible from the home page on each school's website and be available in English, Spanish or any other language used by a majority of the populations served by the school or school district.

46. Requires a school district to update on each school's website the capacity and whether or not the school is currently accepting open enrollment students by grade level, at least once every 12 weeks, unless there are no changes to report.
47. Requires a school district with any other separate capacity for specialized programs at schools to post required capacity information by specialized program.
48. Directs schools to accept pupils throughout the school year as capacity allows through open enrollment policies and to select pupils on the wait list as seats become available.
49. Requires pupils who are denied access to a school due to capacity limits to be informed that they are on a wait list and provided applicable selection process details.
50. Requires a school district to enroll, at any time, any resident pupil who applies for enrollment.
51. Requires a school district to give enrollment preference to and reserve capacity for:
 - a) resident pupils;
 - b) pupils returning to the school from the prior year; and
 - c) siblings of pupils already enrolled.
52. Allows a school district to give enrollment preference to children who:
 - a) meet the definition of unaccompanied youth prescribed in the McKinney-Vento Homeless Assistance Act; or
 - b) attend a school that is closing.
53. Allows a school district to give enrollment preference to and reserve capacity for:
 - a) resident transfer pupils and their siblings; and
 - b) pupils who meet additional criteria established and published by a governing board as outlined.
54. Requires a school or a district, if remaining capacity as determined by the governing board is insufficient to enroll all applicant students, to select pupils through an equitable selection process, such as a lottery, with preference given to siblings of selected pupils.
55. Prohibits a school from limiting admission based on ethnicity or race, national origin, sex, income level, disability, English language proficiency or athletic ability.
56. Increases the limit, from 20 miles to 30 miles each way, for transportation provided by a school district to and from a pupil's school of attendance, pickup point or to an adjacent district for eligible pupils or pupils with disabilities.
57. Requires governing board-adopted policies regarding attendance boundaries to include a parent or guardian notification procedure that includes an assurance that if a school remains open as part of the boundary change and capacity is available, pupils assigned to a new attendance area may stay enrolled in their current school.
58. Prohibits attendance boundaries from being used to require pupils to attend certain schools based on the pupil's place of residence.
59. Defines *resident pupil* as a pupil whose residence is within the attendance area of a school.

Enrollment Information Reporting

60. Directs the SBE to:
- a) adopt a model format school districts can use for describing open enrollment options to ensure clarity and consistency for parents to understand their options, enrollment capacity at each school and the ability to choose any school within their district of residence or any other school in Arizona; and
 - b) adopt rules, policies and guidance for school districts to utilize while enrolling students, consistent with state and federal law.
61. Requires ADE to:
- a) investigate and enforce any complaints or substantiated claims of any unlawful or inappropriate enrollment practices by school districts, according to the supervisory duties of the SPI;
 - b) refer any complaints received regarding charter schools to the ASBCS to investigate and enforce; and
 - c) regularly update the SBE.
62. Requires the ADE to provide an annual report that informs the public and policymakers of the open enrollment participation rate by school district, school and county, including:
- a) the number of pupils by student subgroup designation open enrolled as resident pupils, resident transfer pupils or nonresident pupils in each school and school district;
 - b) the school districts and zip codes from which pupils are enrolling; and
 - c) by FY 2023, the number of pupils enrolled in charter schools and the school districts from which those pupils are enrolling.
63. Requires, subject to available appropriated monies, the SBE to design a public awareness effort by January of each year and distribute materials that:
- a) communicate to the public the ability to choose any public school in Arizona;
 - b) direct the public to resources to learn about school choice options in Arizona; and
 - c) instruct the public on how to request enrollment for pupils.
64. Allows the SBE to include other options in its public awareness effort informational materials and messaging.
65. Allows the SBE, in designing the public awareness effort and distributing materials, to collaborate with:
- a) public and private partners to assist in achieving prescribed objectives; and
 - b) ADE to provide parents and the public with informational resources.

Career Technical Education Districts (CTEDs)

66. Includes students in grade 9 and the school year immediately following graduation in the student count or average daily membership of a CTED, school district that is a part of a CTED or charter school if the student is enrolled in an approved CTED course.
67. Limits funding to no more than four years for the same student.

68. Requires students in grade 9 to reach day 40 of grade 11 enrolled in an approved CTE program to generate funding as part of a CTED ADM calculation.
69. Requires students in grade 9 or the school year after graduation to enroll in a program included on the in-demand regional education list compiled by Office of Economic Opportunity (OEO) for that student's region in the year they began the program to generate funding as a part of a CTED ADM.
70. Deems, in FYs 2022 through 2025, a participating student in an approved career technical education program included on the in-demand regional education list, on the date the list is compiled, is qualified for CTED funding in the year immediately following graduation.
71. Specifies that students in grade 9 or the school year after graduation enrolled in a course that meets for at least 150 minutes per class period will generate an ADM of:
 - a) 0.75, if they are enrolled at a centralized campus; or
 - b) up to 0.75, if they are enrolled at a leased centralized campus.
72. Allows students in an approved CTED leased campus or centralized campus program to generate an ADM during any day of the week and at any time between July 1 and June 30 each fiscal year.
73. Includes, in a CTED student count, students enrolled in an internship course as a part of a CTED program.
74. Requires the OEO, in collaboration with ADE, to compile a List of approved CTE programs that lead to a career path in high demand jobs with median-to-high wages in that region, by September 1 of each year.
75. Requires the OEO to incorporate industry feedback in List development and submit the List to the Arizona Career and Technical Education Quality Commission for review and approval.
76. Includes in the CTED Annual Report the following information for each CTED:
 - a) ADM;
 - b) the actual student count;
 - c) program enrollment and persistence at each grade level towards completion;
 - d) the percentage of students completing each program;
 - e) the number of certifications and licenses earned, delineated by students attending a satellite program or a centralized campus.

Investigations of Certificated and Noncertificated Personnel

77. Transfers, from the Superintendent of Public Instruction (SPI) to the SBE, the oversight of all work related to investigating certificated persons, persons seeking certification and noncertificated persons for immoral or unprofessional conduct.
78. Deems investigators as employees of the SBE, instead of ADE.
79. Directs the SBE, instead of ADE, to adopt rules to investigate complaints alleging a certificated person, a person seeking certification or a noncertificated person engaged in immoral or unprofessional conduct.

80. Allows the SBE, instead of ADE, to:
- a) issue subpoenas to compel witness testimony and production of documents or physical evidence in an investigation or hearing alleging that a certificated or noncertificated person allegedly engaged in immoral or unprofessional conduct; and
 - b) petition the superior court to enforce the subpoena.
81. Deems any failure to obey a court order punishable as contempt.
82. Directs ADE to provide the SBE access to the Educator Information System, including any related systems deemed necessary to investigate and adjudicate allegations of conduct for disciplinary action.
83. Deems the SBE immune from civil liability, unless the information provided in the background investigation is false or there is reckless disregard for truth or falsity.
84. Directs the following entities to report to the SBE, rather than ADE:
- a) any certificated or noncertificated person, or governing board member, who reasonably suspects or receives a reasonable allegation that a certificated or noncertificated person engaged in conduct involving minors; and
 - b) a school district superintendent or the chief administrator of a charter school, who reasonably suspects or receives a reasonable allegation that a certificated or noncertificated person engaged in immoral or unprofessional conduct.
85. Directs the exchange of criminal justice information between the central state repository and the SBE, rather than ADE, for evaluating a certificated or noncertificated person if SBE has reasonable suspicion that the person engaged in criminal, immoral or unprofessional conduct.
86. Directs ADE, rather than the SBE, to provide the Department of Public Safety with a current list of email addresses for each Arizona school district and periodically provide updates.

Crisis Management Team

87. Removes, retroactive to April 2, 2021, prescribed crisis management team membership appointed by the SPI.
88. Removes allowances for the SPI to compensate crisis management team members from a portion of state monies for an underperforming school district.
89. Requires the crisis management team to submit a preliminary report by July 1, 2021, and a final report by December 31, 2021, to the Governor, the President of the Senate, the Speaker of the House of Representatives, ADE and the chairpersons of the House of Representatives and Senate Education and Appropriations committees, with a copy provided to the Secretary of State.
90. Repeals the crisis management team and its prescribed duties and reporting requirements on April 2, 2022.

Federal Monies and Waivers

91. Directs, by July 1, 2021, school districts and charter schools to report to ADE whether they offered in-person, teacher-led instruction for at least 100 days in the 2020-2021 school year and delineate the number of days this instruction was offered.

92. Allows schools, with fewer than 180 days of instruction, to report whether they offered instruction for an equivalent proportion of instructional days.
93. Requires ADE to:
- a) submit, by August 1, 2021, a report to JLBC and the Governor's Office of Strategic Planning and Budgeting that compiles the outlined information; and
 - b) post on its website, by September 1, 2021, plans from school districts and charter schools to address learning loss by spending appropriated monies from the Elementary and Secondary School Emergency Relief (ESSER) Fund.
94. Directs the Governor's office of Strategic Planning and Budgeting to post on its website the \$350 million allocation of Coronavirus State Fiscal Recovery Fund monies appropriated to Arizona by the American Rescue Plan Act of 2021, to supplement ESSER Fund monies for school district and charter schools.
95. Directs, for the 2020-2021 school year, the enforcement of statutory or regulatory requirements consistent with the approved federal waiver of accountability, school identification and related reporting requirements from the U.S. Department of Education, including minimum testing percentages and local school ratings.

Division of School Facilities (Division)

96. Establishes the Division within ADOA.
97. Requires the Director of ADOA to appoint the Director of the Division.
98. Allows the Division to contract with a third party to inspect or certify school district self-inspections at least once every five years to ensure compliance with building adequacy, reporting and maintenance requirements.
99. Removes the requirement that the Division must:
- a) review and approve student population projections for New School Facilities Fund (NSF Fund) monies;
 - b) certify that plans for new school facilities meet building adequacy standards;
 - c) adopt minimum school facility adequacy guidelines for Arizona State Schools for the Deaf and the Blind (ASDB);
 - d) annually report all class B bond approvals by school districts to the JLBC;
 - e) biennially report to the Joint Committee on Capital Review (JCCR) on the amounts necessary to fulfill ASDB new school facility construction; and
 - f) approve or reject requests by school district governing boards to reduce pupil square footage.
100. Requires the Division to:
- a) adopt rules regarding the validation of adjacent ways projects;
 - b) validate proposed adjacent ways projects pursuant to the rules adopted by the Division; and
 - c) submit a monthly report to the School Facilities Oversight Board (Oversight Board) that details each validated adjacent ways project.
101. Requires the Division to annually brief the JCCR regarding the use of monies from the Emergency Deficiencies Correction Fund (EDC Fund), Building Renewal Grant Fund (BRG Fund) and the NSF Fund.

- 102. Allows the Division to contract for private services, construction management services and assessments for school buildings.
- 103. Allows the Division or the Oversight Board, in compliance with procurement practices, to contract for assessments to determine if a school building has been condemned.
- 104. Allows the Division, rather than the Oversight Board, to enter into an agreement with a public procurement unit for procuring materials and services to correct school facility deficiencies.

Oversight Board

- 105. Establishes the Oversight Board within the Division.
- 106. Replaces the statutory membership of the Oversight Board with the following members appointed by the Governor and approved by the Senate:
 - a) one member representing a statewide organization of taxpayers;
 - b) one member who is a registered professional architect;
 - c) one member with knowledge of and experience in school facilities management in a public school system;
 - d) one member who is a registered professional engineer;
 - e) two members who are owners or officers of a private construction company, who have knowledge of and experience in construction of large commercial or government buildings and whose businesses do not include school construction; and
 - f) one member representing the business community.
- 107. Specifies that the SPI and the Director of ADOA or their designees serve as advisory nonvoting members of the Oversight Board.
- 108. Removes the requirement that the Governor appoint a Chairperson of the Oversight Board from the appointed members.
- 109. Removes the requirement that the Governor appoint a Director of the Oversight Board and requires the Director of the Division to serve as the Director of the Oversight Board.
- 110. Requires the Oversight Board to:
 - a) review and approve student population projections submitted by school districts to determine how much monies school districts are entitled to receive for constructing new school facilities;
 - b) make a final determination within five months after receiving a school district's application for monies from the NSF Fund;
 - c) certify that new school facility plans meet prescribed building adequacy standards;
 - d) review and approve or reject requests submitted by school districts to reduce pupil square footage;
 - e) establish minimum school facility adequacy standards for the ASDB; and
 - f) adopt minimum school facility adequacy guidelines to provide the minimum quality and quantity of school buildings, facilities and equipment necessary for pupils to achieve ASDB educational goals.

111. Requires the Oversight Board, by December 15 of each year, to electronically submit a report to the Speaker of the House of Representatives (Speaker), President of the Senate (President), Governor, SPI and Secretary of State that includes the following information for the previous fiscal year:
 - a) a detailed description of the monies distributed by the Oversight Board;
 - b) a list of the capital projects that received monies from the Oversight Board, a description of each funded project and a summary of the reasons for funding the projects; and
 - c) a summary of the findings and conclusions of the building maintenance inspections.
112. Requires the Oversight Board, by December 1 of each year, to electronically report the necessary amounts to fulfill new school facility funding for the next three years to the JCCR and provide a copy of the report to the Speaker, President and Governor.
113. Requires the Oversight Board to use the most recent average daily membership (ADM) data available when calculating the necessary amounts for NSF Fund funding and requires ADE to provide the Oversight Board with the most recent ADM data available, if requested.
114. Requires the Oversight Board, by June 15 of each year, to electronically submit a report to the JCCR and the Governor's Office of Strategic Planning and Budgeting (OSPB) containing:
 - a) detailed information regarding demographic assumptions;
 - b) a proposed construction schedule;
 - c) new school construction cost estimates for projects approved in the current fiscal year; and
 - d) expected project approvals for the upcoming fiscal year.
115. Requires staff from JLBC, OSPB and the Oversight Board to agree on the format of the report.
116. Requires each school district, by December 1 of each year, to report to the Oversight Board on class B bond approvals.
117. Requires the Oversight Board, by December 31 of each year, to report on all class B bond approvals by school district in that calendar year to the JLBC.
118. Allows the Oversight Board to convene subcommittees as needed on specific issues, including school facility safety standards.
119. Requires a school district that receives monies from the BRG Fund or NSF Fund to consider school facility safety standards when completing approved projects or constructing new school facilities with monies received from either Fund.
120. Terminates the Oversight Board on July 1, 2022.

EDC Fund

121. Transfers oversight of the EDC Fund from the Oversight Board to the Division.
122. Directs a school district governing board to issue an emergency declaration or resolution before applying for emergency funding to qualify for monies from the EDC Fund.

123. Requires the Oversight Board to review all EDC Fund policies and procedures developed by the Division.

124. Expands the meaning of *emergency* to include:

- a) a situation that threatens life services such as adequate water supply, energy and wastewater;
- b) a situation in which a school district is under orders for an unsafe environment from an authority with jurisdiction; and
- c) a school district receiving a professional certified assessment demonstrating that one or more facilities or systems are structurally unsafe and directly impact the functions of the school district, with no alternative options available.

BRG Fund

125. Transfers administration of the BRG Fund from the Oversight Board to the Division.

126. Requires a school district to submit a preventive maintenance plan to the Division to be eligible for BRG Fund monies.

127. Specifies that a building renewal grant expires 12 months after grant approval unless the Division issues an extension.

128. Requires, if the Division approves a project and determines that similar projects on average take longer than 12 months to complete, the Division to extend the grant expiration date based on the average amount of time similar projects have required for completion.

129. Requires the Division to establish a process for a school district to request a building renewal grant extension.

130. Requires a school district, upon expiration of a grant, to return any unspent monies from the BRG Fund to the Division for deposit into the BRG Fund.

131. Requires the Division to implement policies and procedures requiring a school district to report the preventive maintenance activities completed during the past 12 months for facilities for which BRG Fund monies are being requested.

132. Directs the Division to submit a monthly report to the Oversight Board that details how monies in the BRG Fund have been distributed.

133. Requires the Division to adopt rules regarding the approval of building renewal grants and time frames for:

- a) approving or denying grant requests for critical projects;
- b) notifying an applicant when their building renewal grant application is incomplete;
- c) providing regular updates to applicants regarding complete grant applications; and
- d) distributing monies from the BRG Fund.

134. Requires the Oversight Board to review all BRG Fund policies and procedures developed by the Division.

135. Allows the Division to spend monies from the BRG Fund on assessments to determine if a grant is warranted.

NSF Fund

136. Transfers administration of the NSF Fund from the Oversight Board to the Division.
137. Requires the Division, at the direction of the Oversight Board, to distribute monies to school districts for constructing new school facilities, purchasing land, certain contracted expenses and additional square footage, as outlined in statute.
138. Allows any extra monies received as a result of a modification based on geographic or site conditions to be used to address unforeseen costs at any stage of an NSF Fund project.
139. Permits a school district to apply for monies from the NSF Fund if one or more school buildings have been condemned.
140. Removes the requirement that any unobligated contract monies in the NSF Fund be transferred to the Capital Reserve Fund.
141. Repeals the Capital Reserve Fund.
142. Increases the prescribed cost per square foot for new school facility construction as follows:
 - a) from \$90 to \$270.24 per square foot for preschool children with disabilities and kindergarten through grade 6;
 - b) from \$95 to \$285.30 per square foot for grades 7 and 8; and
 - c) from \$110 to \$330.30 per square foot for grades 9 through 12.
143. Applies each annual construction market adjustment to all approved projects by the SFB during that year.
144. Applies the increased amounts to the following new school facilities previously approved by the School Facilities Board (SFB):
 - a) Douglas Unified;
 - b) Liberty Elementary;
 - c) Maricopa Unified;
 - d) Queen Creek Unified;
 - e) Safford Unified;
 - f) Santa Cruz Valley;
 - g) Sahuarita Unified;
 - h) Somerton Elementary;
 - i) Tanque Verde; and
 - j) Vail Unified.

Statutory Transfer and Renumbering

145. Transfers and rennumbers [Title 15, Chapter 16](#) relating to School Capital Finance to [Title 41](#) as a new Chapter 56.
146. Renames [Title 41, Chapter 56, Article 1](#) from *SFB* to *School Facilities*.

Succession

147. Allows current SFB members to continue to serve as Oversight Board members until their current terms of office expires.
148. Transfers the authority, powers, duties and responsibilities of the SFB to the Oversight Board and the Division.
149. Specifies that the effects of any actions taken or the valid obligations of the SFB in existence before the effective date of this legislation are not impaired or altered.
150. Continues the enforcement of SFB-adopted administrative rules and orders until superseded by administrative action by the Oversight Board or the Division.
151. Specifies that all SFB administrative matters, contracts and judicial and quasi-judicial actions are transferred to and retain the same status within the Oversight Board and the Division.
152. Specifies that all SFB-issued certificates, licenses, registrations, permits and other indicia of qualification and authority retain their validity for the duration of their terms of validity, as provided by law.
153. Transfers all SFB equipment, records, furnishings and other property, data and investigative findings, obligations and appropriated monies remaining unexpended and unencumbered to the Oversight Board or Division on the effective date of this legislation.
154. Specifies that all SFB-employed personnel who are under the state personnel system are transferred to comparable positions and pay classifications in the respective administrative units of the Oversight Board on the effective date of this legislation.
155. Makes conforming changes regarding outstanding state school facilities revenue bonds, subject to the affirmative vote of at least three-fourths of the members of each house of the Legislature (Proposition 105).

Empowerment Scholarship Accounts (ESAs)

156. Includes, as a *qualified student*, a child who:
 - a) receives FRPLs under the National School Lunch and Child Nutrition Acts; or
 - b) has a parent who is a veteran of the U.S. armed forces.
157. Defines *child who receives FRPLs under the National School Lunch and Child Nutrition Acts* as an incoming kindergartener or any other student eligible for:
 - a) the National School Lunch and Child Nutrition Acts; or
 - b) an equivalent measure for participating in the federal FRPL Program or other school programs based on a poverty measure.
158. Reduces, from the first 100 days to any 30 days, the amount of time a full-time student must attend a qualified governmental primary or secondary school to qualify for the ESA Program.

159. Deems qualified students attending a governmental primary or secondary school during the current fiscal year eligible for the ESA Program.

160. Deems qualified students counted among the average daily membership at any governmental primary or secondary school in Arizona during the prior fiscal year eligible for the ESA Program, including Arizona online instruction students.

ESA Funding Modifications

161. Entitles a child participating in the ESA Program to an equitable share of the funding that would otherwise be allocated to a charter school or school district from the Classroom Site Fund (CSF) for that child.

162. Includes a child participating in the ESA Program in the estimated statewide weighted student count for the purposes of calculating the per pupil amount from the CSF, as long as the student continues to participate in the ESA Program.

163. Requires the ADE to annually transfer, from the ESA Fund to the State Treasurer for deposit into each ESA, an amount equal to the per-pupil amount multiplied by the student's weighted count that would be calculated by the student's prior or expected district or charter school of attendance.

164. Counts the amount transferred to each ESA from the ESA Fund toward the total amount ADE is required to allocate to each ESA and allows the funds to be used for any approved expenditures.

165. Allows ESA monies to be used on public transportation services in Arizona, including a commuter pass for the qualified student or specified transportation network services between the qualified student's residence and a qualified school.

166. Allows ESA monies to fund additional services including any amount of educational therapies from a licensed or accredited provider not covered by a health insurance policy, if the expense is partially paid by insurance for the qualified student.

167. Allows an ESA to remain open after the qualified student's graduation from a postsecondary institution or after four consecutive years following high school graduation without enrollment in a postsecondary institution if the account holder continues using a portion of ESA monies for eligible expenses and is in good standing.

168. Requires an expenditure for a purchase that is deemed ineligible and subsequently repaid by the parent or ESA holder to be credited back to the ESA within 30 days of payment receipt, unless the Attorney General (AG) determines fraud has been committed.

169. Specifies that the letter grades for schools or school districts, used to determine qualifying students for the ESA program, are from the most recent year in which letter grades were assigned.

170. Exempts the SBE from uniform administrative hearing procedure requirements for contested cases and appealable agency action in connection to the ESA program.

171. Decreases, from 45 days to 30 days, the amount of time ADE has to enroll and issue award letters to eligible students in the ESA program after receiving completed applications.

172. Requires, retroactive to March 30, 2021, the Joint Legislative Budget Committee (JLBC) to revise the calculation of the per pupil amount from the CSF for FY 2022 to include children participating in the ESA Program with 10 days of the effective date.

Authorization of Legal Action

173. Authorizes the AG to bring an action to recover illegally paid public monies against:

- a) a public official, employee or agent of Arizona, a political subdivision or a budget unit that knowingly uses public monies or public resources to plan or execute any activity preventing a public school from operating for any period of time, with specified exemptions; or
- b) a teacher, administrator, other school district or charter school employee or state employee whose violation of prohibited instruction resulted in an illegal use of public monies.

174. Exempts a public official, employee or agent who is acting in good faith and in furtherance of their official duties from AG action.

175. Specifies public resources include email, equipment or compensated work time.

Prohibited Instruction

176. Prohibits a teacher, administrator or other employee of a school district, charter school or state agency, who is involved with students and teachers in preschool through grade 12, from requiring instruction in or making the following concepts a part of a course:

- a) one race, ethnic group or sex is inherently morally or intellectually superior to another race, ethnic group or sex;
- b) an individual, by virtue of their race, ethnicity or sex, is inherently racist, sexist or oppressive, whether consciously or unconsciously;
- c) an individual should be invidiously discriminated against or receive adverse treatment because of their race, ethnicity or sex;
- d) an individual's moral character is determined by their race, ethnicity or sex;
- e) an individual bears responsibility for actions by other members of the same race, ethnic group or sex;
- f) an individual should feel discomfort, guilt, anguish or any other psychological distress because of their race, ethnicity or sex; and
- g) academic achievement, meritocracy or traits, including a hard work ethic, are racist, sexist or were created by members of a particular race, ethnic group or sex to oppress members of another race, ethnic group or sex.

177. Allows an attorney, acting on behalf of a public school, to request a legal opinion from the county attorney or the AG whether a proposed use of school district resources would violate the prohibition on course concepts.

178. Allows the county attorney or the AG to initiate a suit in the superior court in the county where the alleged violation occurs.

- 179. Subjects a teacher in violation to disciplinary action, including suspending or revoking a teacher's certificate, as determined by the SBE.
- 180. Allows a court to impose a civil penalty for each violation, limited to \$5,000 per school district, charter school or state agency where the violation occurs.
- 181. Specifies any sexual harassment training or lessons on recognizing and reporting abuse is still permitted.

School Finance Data System

- 182. Requires ADE, before each expenditure to replace the school finance system, to submit the purpose and estimated costs for review and approval to ADOA and the Information Technology Authorization Committee (ITAC).
- 183. Directs ADOA, in consultation with ADE, to detail development milestones for the replacement of the school finance data system and include, within 30 days after the end of FY 2021, the following:
 - a) the deliverable dates ADE must meet for the entirety of the project's lifecycle;
 - b) the deliverables provided by ADE to ADOA regarding full system documentation;
 - c) critical deliverables for the project; and
 - d) be derived from the ITAC approved accelerated plan on August 19, 2020.
- 184. Requires ADE to:
 - a) receive approval from the SPI and the ADOA Director to close a milestone and be eligible for funding for complete work on any major milestone or critical deliverable for the replacement of the school finance data system;
 - b) submit an expenditure plan on the staffing of the school finance project for review and be deemed adequate by ADOA to comply with the project milestones;
 - c) use a portion of the appropriated monies to engage with a third party to conduct an independent verification and validation for the replacement of the school finance data system; and
 - d) update all current third-party agreements conducting the independent verification and validation.
- 185. Requires ADOA to define any agreement terms with a third party that conducts the independent verification and validation.
- 186. Specifies that the Legislature intends that ADE work collaboratively with ADOA to replace the school finance data system including providing all materials and necessary information to complete the project within the milestones, as outlined.

Transportation Modernization Grants Program

- 187. Creates the Public School Transportation Modernization Grants Program (Program) in ADOA.

188. Directs ADOA to select an organization to administer the Program that:

- a) is a 501(c)(3) nonprofit organization with experience awarding innovation grants to both Arizona school districts and charter schools that promote expanding student educational options or innovative approaches to K-12 education;
- b) has previously been awarded funding from Arizona or the federal government to provide grants to school districts or charter schools in the current or previous fiscal year; and
- c) demonstrates the ability and history to provide ongoing evaluation and compliance to entities that are awarded grants.

189. Requires the selected program administrator to:

- a) distribute grants to eligible school districts, charter schools or other entities;
- b) develop a public school transportation modernization grant application and procedures that require an applicant to explain how it would use grant monies to do either of the following:
 - i. improve student access to reliable and safe transportation to attend school through open enrollment processes, or students who attend charter schools; or
 - ii. support K-12 transportation innovations and efficiency solutions;
- c) make final grant determinations and awards as outlined;
- d) submit an interim report, by December 31, 2021, to ADOA; and
- e) submit an annual report, by June 30 each year after, to the Governor, the President of the Senate and the Speaker of the House of Representatives with a copy of these reports to the Secretary of State.

190. Outlines the submitted reports must include:

- a) the best practices used by grant recipients to transport K-12 student to schools outside of attendance boundaries, if applicable;
- b) a list of recipients, the amounts and the purposes of the grants; and
- c) the number of students impacted per grant recipient.

191. Requires ADE, ADOA and any grant recipient to provide any information, including student finance and enrolment data, deemed necessary by the program administrator to complete the reports.

192. Specifies the program administrator must:

- a) distribute the appropriated monies based on demand and the most innovative solutions;
- b) award at least 25 percent of the grants to rural and remote proposals, unless there is an insufficient number of qualified proposals; and
- c) retain up to five percent to administer the grant program each fiscal year.

193. Allows administrative expenditures to include a public awareness effort to communicate the ability to choose any Arizona public school, how to learn about school choice options and how to request enrollment for pupils.

194. Repeals the Program on January 1, 2025.

Miscellaneous

195. Allows age and grade-appropriate classroom instruction on child assault awareness and abuse prevention, conditioned on the enactment of House Bill 2035, relating to parental rights and sex education instruction.
196. Allows, by August 15, 2021, the Buckeye Union High School District to submit corrections to its teacher experience index data and use the resulting teacher experience index to determine its FY 2021 base support level.
197. Directs the State Treasurer, by September 1 of each year, to report to the JLBC and OSPB the following:
 - a) the required distributions from the Student Support and Safety Fund including the actual distributions in the prior fiscal year and estimated distributions for the current fiscal year; and
 - b) the required distributions from the Career Training and Workforce Fund, including the actual distributions in the prior fiscal year and estimated distributions for the current fiscal year.
198. Adds the Governor's Office of Strategic Planning and Budgeting as a recipient of a report from the SBE regarding the aggregate expenditures of local revenues for all school districts in the current year.
199. Adds the Governor's Office of Strategic Planning and Budgeting to the required entities the SBE must report the aggregate expenditures of local revenues for all school districts in the current year.
200. Conforms the tax year 2021 qualifying tax rate and state equalization tax rate to the statutory K-12 property tax rates.
201. Increases, from \$250,000 to \$325,000 per fiscal year, the transfer limit of unclaimed prize money from the state lottery to the Tribal College Dual Enrollment Program Fund.
202. Specifies that instructional time models requirements as outlined in [Laws 2021, Chapter 299](#) apply to individual schools, instead of a school district.
203. Continues to state as the intent of the Legislature and the Governor that school districts increase the total percentage of classroom spending over the previous year's percentages in the combined categories of instruction, student support and instructional support as prescribed by the Auditor General.
204. Makes technical and conforming changes.
205. Becomes effective on the general effective date, with a delayed effective date and a retroactive provision as noted.

Amendments Adopted by Committee of the Whole

Face Coverings

1. Prohibits, retroactive to July 1, 2021, a county, city, town, governing board or governing body from requiring students or staff to use face coverings during school hours and on school property.
2. Removes allowances for a governing board or governing body to make the final determination on any face covering policy.

Child Assault Awareness and Abuse Prevention

3. Allows age and grade-appropriate classroom instruction on child assault awareness and abuse prevention, conditioned on the enactment of House Bill 2035, relating to parental rights and sex education instruction.

CTEDs

4. Requires a CTED to cover a student's licensure or certification exam cost and directs a CTED to apply to ADE for reimbursement.
5. Deems, in FYs 2022 through 2025, a participating student in an approved career technical education program included on the in-demand regional education list, on the date the list is compiled, is qualified for CTED funding in the year immediately following graduation.

Prohibited Instruction

6. Prohibits a teacher, administrator or other district, charter school or state employee, involved with teachers or students in preschool through grade 12, from requiring instruction in or making the following concepts a part of a course:
 - a) one race, ethnic group or sex is inherently superior to another;
 - b) an individual, by virtue of their race, ethnicity or sex, is inherently racist, sexist or oppressive;
 - c) an individual should be discriminated against or receive adverse treatment because of their race, ethnicity or sex;
 - d) an individual's character is determined by their race, ethnicity or sex;
 - e) an individual bears responsibility for actions by other members of the same race, ethnic group or sex;
 - f) an individual should feel discomfort, guilt or anguish because of their race, ethnicity or sex; and
 - g) academic achievement, meritocracy or traits are racist, sexist or were created by others to oppress members of another race, ethnic group or sex.
7. Specifies that any sexual harassment training or lessons on recognizing and reporting abuse are still permitted.
8. Allows an attorney representing a public school to request a legal opinion whether a proposed use of school resources would be a violation.

9. Allows the county attorney or the AG to initiate a suit in the county where the alleged violation occurs.
10. Subjects a violating teacher to disciplinary action, including suspending or revoking their certificate, as determined by the SBE.
11. Allows a court to impose a civil penalty for each violation, limited to \$5,000 per school district, charter school or state agency.

Injunctive and Civil Remedies

12. Authorizes the AG to bring an action against:
 - a) a public official, employee or agent of Arizona, a political subdivision or a budget unit that uses public monies or resources to plan any activity preventing a public school from operating, with specified exemptions; or
 - b) a teacher, administrator, other district, charter school or state employee whose violation of prohibited instruction results in an illegal use of public monies.
13. Specifies public resources include email, equipment or compensated work time.

SFB

14. Transfers the authority, powers, duties and responsibilities of the SFB to the Oversight Board and the Division and maintains existing rules, orders and contracts.
15. Specifies that all SFB-issued certificates, licenses, registrations and permits retain their validity for the duration of their terms.

Division

16. Establishes the Division within ADOA and outlines and modifies Division duties.
17. Requires the Division to contract with a third party to certify school district self-inspections to ensure compliance with adequacy and reporting requirements.
18. Transfers oversight of the EDC Fund, the BRG Fund and the NSF Fund to the Division.
19. Requires the Division to annually brief the Joint Committee on Capital Review regarding the use of monies from the EDC Fund, the BRG Fund and the NSF Fund.

Oversight Board

20. Creates the Oversight Board within the Division and replaces the current membership with members appointed by the Governor and approved by the Senate.
21. Establishes that the SPI and the ADOA Director or their designees serve as advisory nonvoting members.

22. Allows current SFB members to continue to serve as Oversight Board members until their current terms of office expire.
23. Requires the Oversight Board to review and approve student population projections to determine how much monies districts receive for new school facilities.
24. Directs the Oversight Board to:
 - a) certify new school facility plans meet prescribed adequacy standards;
 - b) review and approve district requests to reduce pupil square footage; and
 - c) adopt minimum school facility guidelines for the Arizona State Schools for the Deaf and the Blind.
25. Establishes reporting requirements for the Oversight Board to provide specified information.
26. Terminates the Oversight Board on July 1, 2022.

EDC Fund

27. Directs a governing board to issue an emergency declaration before applying for emergency funding from the EDC Fund.
28. Expands the meaning of *emergency* to include:
 - a) a situation that threatens adequate water supply, energy and wastewater;
 - b) an unsafe environment at a school district; and
 - c) school facilities or systems that are structurally unsafe and impact the functions of the school district.

BRG Fund

29. Directs a school district to submit a preventive maintenance plan to the Division to be eligible for BRG Fund monies.
30. Specifies that a building renewal grant expires 12 months after grant approval, unless it is extended.
31. Directs a school district to return any unspent BRG Fund monies for deposit into the BRG Fund.
32. Requires a school district to report the preventive maintenance activities completed during the past 12 months for facilities for which BRG Fund monies are being requested.
33. Directs the Division to adopt rules and timelines to approve a building renewal grant with notification requirements.

NSF Fund

34. Requires the Division, with direction from the Oversight Board, to distribute monies to school districts for constructing new school facilities and purchasing land and outlined contracted expenses.
35. Permits a school district to apply for monies from the NSF Fund if one or more school buildings have been condemned.

ESAs

36. Deems children qualified for the ESA program who:
 - a) receive FRPLs under the National School Lunch and Child Nutrition Acts; or
 - b) have a parent who is a veteran of the U.S. armed forces.
37. Reduces, from the first 100 days to any 30 days, the amount of time a full-time student must attend a qualified primary or secondary school to qualify for the ESA Program.
38. Modifies ESA Program eligibility to include:
 - a) students attending a primary or secondary school during the current fiscal year; or
 - b) students counted among the average daily membership at any primary or secondary school during the prior fiscal year, including Arizona online instruction students.
39. Requires an ineligible purchase that is repaid by the ESA holder to be credited back to the ESA within 30 days of payment receipt, unless the AG determines fraud has been committed.
40. Entitles a child participating in the ESA Program to an equitable share of the funding that would otherwise be allocated to a charter school or school district from the Classroom Site Fund for that child.
41. Allows ESA monies to:
 - a) fund any amount of educational therapies from a licensed or accredited provider not covered by a health insurance policy, if the expense is partially paid by insurance; or
 - b) be used on public transportation services in Arizona, including a commuter pass or specified transportation network services between the qualified student's residence and a qualified school.
42. Allows an ESA to remain open after the qualified student's graduation from a postsecondary institution or after four consecutive years following high school graduation, if the account holder meets certain conditions.

Miscellaneous

43. Delays, until July 1, 2022, the adjustments to the basic state aid apportionment schedule.
44. Allows, instead of requires, the Auditor General to assist ADOA with any requested information for the school financial transparency portal.
45. Makes technical and conforming changes.

Senate Action

APPROP 5/25/21 DP 6-4-1

Prepared by Senate Research

June 22, 2021

JO/gs